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DEPARTMENT OF VETERANS AFFAIRS PRIVACY ACT OF 1974; SYSTEM OF RECORDS

AGENCY: Department of Veterans Affairs (VA)

ACTION: Notice of Establishment of New System of Records

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552(e) (4)) requires that all agencies publish in the Federal Register a notice of the existence and character of their systems of records. Notice is hereby given that VA is establishing a new system of records entitled "Community Residential Care and Medical Foster Home Programs-VA" (142VA114).

DATES: Comments on this new system of records must be received no later than **[Insert date 30 days after date of publication in the Federal Register]**. If no public comment is received, the new system will become effective **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Written comments concerning the proposed amended system of records may be submitted through www.regulations.gov; by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Rick Greene, MSW, National Program Manager for Community Residential Care and Medical Foster Home, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420; telephone (202) 461-6786.

SUPPLEMENTAL INFORMATION:

I. Description of Proposed Systems of Records

These records include information concerning veterans who reside in Community Residential Care (CRC) or Medical Foster Home (MFH) homes. In addition, the records include information on the operators and staff at these homes.

II. Proposed Routine Use Disclosures of Data in the System

We are proposing to establish the following routine use disclosures of information maintained in the system:

1. The record of an individual who is covered by a systems of records may be disclosed to a Member of Congress, or a staff person acting for the Member, when the Member of staff person requests the record on behalf of or at the written request of the individual.
2. Disclosure may be made to National Archives and Records Administration (NARA) and the General Services Administration (GSA) in records management inspections conducted under authority of title 44, chapter 29, of the United States Code (U.S.C.). NARA and GSA are responsible for management of old records no longer actively used, but which may be appropriate for preservation, and for the physical maintenance of the Federal government's records. VA must be able to

provide the records to NARA and GSA in order to determine the proper disposition of such records.

3. VA may disclose on its own initiative any information in this system, except the names and home addresses of veterans and their dependents, that is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order. VA may also disclose on its own initiative the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule, or order issued pursuant thereto.

4. VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body

after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

5. Disclosures of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform the services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement. This routine use includes disclosures by the individual or entity performing the service for VA to any secondary entity or individual to perform an activity that is necessary for individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to provide the service to VA.

6. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

7. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs whether maintained by the Department or another

agency or disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

8. VA may disclose identifying information, including Social Security number, concerning veterans, spouses of veterans, and the beneficiaries of veterans to other Federal agencies for the purpose of conducting computer matches to obtain information to determine or verify eligibility of veterans receiving VA medical care under title 38, U.S.C.

9. VA may disclose relevant health care information to: (1) a Federal agency or non-VA health care provider or institution when VA refers a patient for hospital or nursing home care or medical services, or authorizes a patient to obtain non-VA medical services and the information is needed by the Federal agency or non-VA institution or provider to perform the services; or (2) a Federal agency or to a non-VA hospital (Federal, state, and local public or private) or other medical installation having hospital facilities, organ banks, blood banks, or similar institutions, medical schools or clinics, or other groups or individuals that have contracted or agreed to provide medical services or share the use of medical resources under the provisions of 38 U.S.C. 513, 7409, 8111, or 8153, when treatment is rendered by VA under the terms of such contract or agreement or

the issuance of an authorization, and the information is needed for purposes of medical treatment and/or follow-up, determining entitlement to a benefit, or for VA to effect recovery of the costs of the medical care.

10. VA may disclose information from this system of records to the Office of Management and Budget (OMB) for the performance of its statutory responsibilities for evaluating Federal programs. VA must be able to provide information to OMB to assist it in fulfilling its duties as required by statute and regulation.

11. VA may disclose information to a fiduciary or guardian ad litem in relation to his or her representation of a claimant in any legal proceeding, but only to the extent necessary to fulfill the duties of the fiduciary or guardian ad litem. This disclosure permits VA to provide individual information to an appointed VA Federal fiduciary or to the individual's guardian ad litem that is needed to fulfill appointed duties.

12. VA may disclose relevant information from this system of records in the course of presenting evidence to a court, magistrate, or administrative tribunal; in matters of guardianship, inquests, and commitments; to private attorneys representing veterans rated incompetent in conjunction with issuance of Certificates of Incompetency; and to probation and parole officers in connection with court-required duties.

13. VA may disclose information from this system of records relevant to a claim of a veteran or beneficiary, such as the name, address, the basis and nature of a claim, amount of benefit payment information, medical information, and military

service and active duty separation information, at the request of the claimant to accredited service organizations, VA-approved claim agents, and attorneys acting under a declaration of representation, so that these individuals can aid claimants in the preparation, presentation, and prosecution of claims under the laws administered by VA. The name and address of a claimant will not, however, be disclosed to these individuals under this routine use if the claimant has not requested the assistance of an accredited service organization, claims agent or an attorney.

14. VA may disclose relevant medical record information concerning a patient to a non-VA nursing home facility that is considering the patient for admission, when information concerning the individual's medical care is needed for the purpose of preadmission screening under 42 CFR 483.20(f) to identify patients who are mentally ill or mentally retarded so they can be evaluated for appropriate placement.

III. Compatibility of the Proposed Routine Uses

The Privacy Act permits VA to disclose information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which we collected the information. In all of the routine use disclosures described above, the recipient of the information will use the information in connection with a matter relating to one of VA's programs, or will use the information to provide a benefit to VA, or disclosure is required by law.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office

of Management and Budget as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: October 4, 2011

John R. Gingrich, Chief of Staff
Department of Veterans Affairs.

SOR # 142VA114

SYSTEM NAME: "Community Residential Care and Medical Foster Home Programs-VA"

SYSTEM LOCATION:

Records are maintained at selected VA health care facilities that have Community Residential Care (CRC) and Medical Foster Home (MFH) Programs (in most cases, back-up computer tape information is stored at the VA Data Processing Center, 1615 East Woodward Street, Austin, Texas 78772). Address locations for VA facilities are listed in VA Appendix 1. In addition, information from these records or copies of records may be maintained at the Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, VA Data Processing Centers, and Veterans Integrated Service Network Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records include information concerning veterans who reside in CRC or MFH homes. In addition, the records include information on the operators and staff of these homes.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records may include information related to:

1. Applications, background checks, agreements with veterans, educational programs, driver's licenses, health screenings, etc.
2. Home inspection reports, corrective plans of action, emergency plans, correspondence, and hearing documents.

3. Personal identifiers (including date of birth, Social Security number, VA Claim number, financial information, pictures, etc.), medical records, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, section 1730.

PURPOSE(S):

The records and information may be used for determining a potential facility's initial eligibility and ongoing participation in the program, provision of medical and psycho-social services to veterans, operation of the programs, and information required by VA Medical Centers to complete quarterly statistical reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information protected by 45 C.F.R. Parts 160 and 164, i.e., individually identifiable health information, and 38 U.S.C. 7332, i.e., medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia, or infection with the human immunodeficiency virus, that information cannot be disclosed under a routine use unless there is also specific statutory authority in 38 U.S.C. 7332 and regulatory authority in 45 C.F.R. Parts 160 and 164 permitting disclosure.

1. The record of an individual who is covered by a systems of records may be disclosed to a Member of Congress, or a staff person acting for the Member, when the Member or staff person requests the record on behalf of or at the written request of the individual.

2. Disclosure may be made to National Archives and Records Administration (NARA) and the General Services Administration (GSA) in records management inspections conducted under authority of title 44, chapter 29, of the United States Code (U.S.C.).

3. VA may disclose on its own initiative any information in this system, except the names and home addresses of veterans and their dependents, that is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order. VA may also disclose on its own initiative the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule, or order issued pursuant thereto.

4. VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose

for which VA collected the records.

5. Disclosures of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform the services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

6. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

7. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs whether maintained by the Department or another agency or disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms

are defined in 38 U.S.C. 5727.

8. VA may disclose identifying information, including Social Security number, concerning veterans, spouses of veterans, and the beneficiaries of veterans to other Federal agencies for the purpose of conducting computer matches to obtain information to determine or verify eligibility of veterans receiving VA medical care under Title 38, U.S.C.

9. VA may disclose relevant health care information to: (1) a Federal agency or non-VA health care provider or institution when VA refers a patient for hospital or nursing home care or medical services, or authorizes a patient to obtain non-VA medical services and the information is needed by the Federal agency or non-VA institution or provider to perform the services; or (2) a Federal agency or to a non-VA hospital (Federal, state, and local public or private) or other medical installation having hospital facilities, organ banks, blood banks, or similar institutions, medical schools or clinics, or other groups or individuals that have contracted or agreed to provide medical services or share the use of medical resources under the provisions of 38 U.S.C. 513, 7409, 8111, or 8153, when treatment is rendered by VA under the terms of such contract or agreement or the issuance of an authorization, and the information is needed for purposes of medical treatment and/or follow-up, determining entitlement to a benefit, or for VA to effect recovery of the costs of the medical care.

10. VA may disclose information from this system of records to the Office of Management and Budget (OMB) for the performance of its statutory responsibilities for evaluating Federal programs.

11. VA may disclose information to a fiduciary or guardian ad litem in relation to his or her representation of a claimant in any legal proceeding, but only to the extent necessary to fulfill the duties of the fiduciary or guardian ad litem.

12. VA may disclose relevant information from this system of records in the course of presenting evidence to a court, magistrate, or administrative tribunal; in matters of guardianship, inquests, and commitments; to private attorneys representing veterans rated incompetent in conjunction with issuance of Certificates of Incompetency; and to probation and parole officers in connection with court-required duties.

13. VA may disclose information from this system of records relevant to a claim of a veteran or beneficiary, such as the name, address, the basis and nature of a claim, amount of benefit payment information, medical information, and military service and active duty separation information, at the request of the claimant to accredited service organizations, VA-approved claim agents, and attorneys acting under a declaration of representation, so that these individuals can aid claimants in the preparation, presentation, and prosecution of claims under the laws administered by VA. The name and address of a claimant will not, however, be disclosed to these individuals under this routine use if the claimant has not requested the assistance of an accredited service organization, claims agent, or an attorney.

14. VA may disclose relevant medical record information concerning a patient to a non-VA nursing home facility that is considering the patient for admission, when information concerning the individual's medical care is needed for the

purpose of preadmission screening under 42 CFR 483.20(f) to identify patients who are mentally ill or mentally retarded so they can be evaluated for appropriate placement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computers, paper, and removable or external hardware.

RETRIEVABILITY:

Records are retrieved by name, Social Security number, or other assigned identifiers of the individuals on whom they are maintained.

SAFEGUARDS:

1. Access to VA working and storage areas is restricted to VA employees on a "need-to-know" basis; strict control measures are enforced to ensure that disclosure to these individuals is also based on this same principle. Generally, VA file areas are locked after normal duty hours and the facilities are protected from outside access by the Federal Protective Service or other security personnel.
2. Access to computer rooms at health care facilities is generally limited by appropriate locking devices and restricted to authorized VA employees and vendor personnel. ADP peripheral devices are placed in secure areas (areas that are locked or have limited access) or are otherwise protected. Information in VistA may be accessed by authorized VA employees. Access to file information is controlled at two levels; the systems recognize authorized employees by series of individually unique

passwords/codes as a part of each data message, and the employees are limited to only that information in the file which is needed in the performance of their official duties. Information that is downloaded from VistA and maintained on personal computers is afforded similar storage and access protections as the data that is maintained in the original files. Access to information stored on automated storage media at other VA locations is controlled by individually unique passwords/codes.

3. Access to the Austin VA Data Processing Center is generally restricted to Center employees, custodial personnel, Federal Protective Service, and other security personnel. Access to computer rooms is restricted to authorized operational personnel through electronic locking devices. All other persons gaining access to computer rooms are escorted. Information stored in the computer may be accessed by authorized VA employees at remote locations including VA health care facilities, Information Systems Centers, VA Central Office, and Veterans Integrated Service Networks. Access is controlled by individually unique passwords/codes which must be changed periodically by the employee.

RETENTION AND DISPOSAL:

Paper records and information are maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Official responsible for policies and procedures; Office of Geriatrics and Extended Care (114), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington,

DC 20420.

NOTIFICATION PROCEDURE:

Individuals who wish to determine whether this system of records contains information about them should contact the VA facility location at which they are or were employed or made or have contact. Inquiries should include the person's full name, Social Security number, dates of employment, date(s) of contact, and return address.

RECORD ACCESS PROCEDURE:

Individuals seeking information regarding access to and contesting of records in this system may write, call, or visit the VA facility location where they are or were employed or made contact.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by individuals requesting participation in the CRC and MFH programs.

APPENDIX I – ADDRESS LOCATIONS FOR VA FACILITIES

COMMUNITY RESIDENTIAL CARE PROGRAMS:

Togus ME; Bedford MA; Leeds MA; Boston MA; Bath NY; Canandaigua NY; Syracuse NY; Montrose NY; East Orange NJ; Northport NY; Altoona PA; Lebanon PA; Wilkes Barre PA; Pittsburgh PA; Wilmington DE; Clarksburg WV; Martinsburg WV; Perry Point MD; Beckley WV; Washington DC; Richmond VA; Hampton VA; Salem VA; Asheville NC; Salisbury NC; Atlanta GA; Augusta GA; Dublin GA; Birmingham AL; Tuscaloosa AL; Tuskegee AL; San Juan PR; Gainesville FL; Jacksonville FL; West Palm Beach FL; Murfreesboro TN; Mountain Home TN; Lexington KY; Louisville KY; Cleveland OH; Dayton OH; Chillicothe OH; Columbus OH; Danville IL; Indianapolis IN; Marion IN; Tomah WI; North Chicago IL; Hines IL; St. Louis MO; Alexandria LA; New Orleans LA; Shreveport LA; Biloxi MS; Jackson MI; Fayetteville AR; Little Rock AR; Dallas TX; Houston TX; San Antonio TX; Waco TX; Muskogee OK; Oklahoma City OK; Denver CO; Salt Lake City UT; Boise ID; Roseburg OR; Tacoma WA; Loma Linda CA; Long Beach CA; Los Angeles CA; San Diego CA; Palo Alto CA; St. Cloud MN; Sioux Falls SD; Omaha NE; Des Moines IO.

MEDICAL FOSTER HOME PROGRAMS (Operational or Being Developed):

Togus ME; Manchester NH; Boston MA; Lebanon PA; Huntington WV; Asheville NC; Hampton VA; Salem VA; Augusta GA; Dublin GA; Tuscaloosa AL; Tuskegee AL; Bay Pines FL; Gainesville FL; Miami FL; Tampa FL; West Palm Beach FL; San Juan PR; Lexington KY; Louisville KY; Memphis TN; Murfreesboro TN; Chillicothe OH; Cleveland OH; Battle Creek MI; St. Louis MO; Biloxi MS; Fayetteville AR; Little Rock AR; Dallas TX; San Antonio TX; Denver CO; Portland OR; Salt Lake City UT; Honolulu HI; Sioux

Falls SD; Des Moines IA; Minneapolis MN.

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